

**FILED**

JUL 08 2014

**UNITED STATES DISTRICT COURT**  
for the

Western District of Texas

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY *[Signature]* DEPUTY CLERK

United States of America

v.

Mitchell Stephen Dailey

)

Case No.

MD:14-MJ-294

*Defendant(s)*

**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 2014 in the county of Ector in the  
Western District of Texas, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 USC 1470	Sending obscene material to a person under the age of 16

This criminal complaint is based on these facts:

See attached affidavit of Texas Ranger Brian Burney

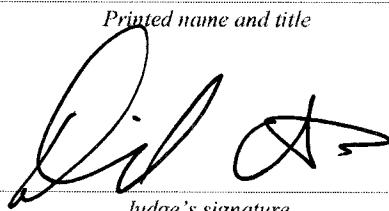
Continued on the attached sheet.



Complainant's signature

Brian Burney, Texas Ranger

Printed name and title



Judge's signature

Sworn to before me and signed in my presence.

Date: 7/8/14City and state: Midland, Texas

David Counts, U.S. Magistrate Judge

Printed name and title

## AFFIDAVIT FOR ARREST WARRANT

**THE STATE OF TEXAS  
COUNTY OF MIDLAND**

THE UNDERSIGNED AFFIANT, BEING A PEACE OFFICER UNDER THE LAWS OF TEXAS AND BEING DULY SWORN, ON OATH MAKES THE FOLLOWING STATEMENTS AND ACCUSATIONS:

Affiant has reason to believe and does believe that **Mitchell Stephen Dailey, white, male, 23 years old,** has committed the offense of sending obscene material to a minor under the age of 16. The Affiant's basis of belief is the following set of facts and circumstances:

On 07-03-2014, Odessa Police Department officers received information of potential inappropriate behavior between a civilian Odessa Police Department employee and a 15 year old female. The inappropriate behavior took place during Police Athletic League program events. It was also alleged the adult male and the juvenile female were sending nude pictures of themselves to the other person via social media applications and or text messages and the suspect had inappropriately touched the victim. The officers immediately notified their supervisor, who immediately contacted the Odessa Police Department's Professional Standards Unit. An investigation was immediately opened.

The Odessa Police Department operates a Police Athletic League (PAL) program, which consists of a 6-week long summer camp. In this program, police officers oversee, mentor, and instruct sporting events, teamwork and leadership activities. During the eight-hour day, the children will participate in sports activities such as baseball, basketball, volleyball, kickball, archery and bowling. The program also incorporates sports field trips such as bowling, swimming and ice skating.

When the Odessa Police Department hires new police recruits, those individuals are allowed to work, in a civilian capacity, in various support roles within the department prior to the beginning of the police academy. On 05-19-2014, **Mitchell (Mitch) Daily** was hired by the Odessa Police Department. He was scheduled to begin the police academy on 07-14-2014. Prior to the academy's start date, **Daily** was allowed to work with the PAL program. The 2014 Odessa PAL program operated from June 9<sup>th</sup> thru July 3<sup>rd</sup>.

The PSU investigators contacted the complainant and received the victim's name. The investigators contacted the victim's mother who immediately brought her daughter to the police department. The victim will be referred to in this affidavit as "Jane Doe 1". "Jane Doe 1," who is 15-years-old, was interviewed by a forensic interviewer at the Harmony Home in Odessa.

"Jane Doe 1" stated that she met **Dailey** at the PAL program where she was a volunteer. She and Dailey exchange Kik information, a text messaging application, and they commenced to send each other text messages. "Jane Doe 1" advised that soon after she and **Dailey** began to talk to each other, he asked her if she would not mind being his girlfriend and she responded that she would not mind it at all. "Jane Doe 1" advised that during the time she and **Dailey** spoke with each other, he told her he was 23 yrs old and she informed him that she was 15 yrs old. "Jane Doe 1" stated that during PAL events, she and **Dailey** would meet for a few minutes at a time in various locations within the PAL facility or the PAL van. When they were not together at the PAL program, they would communicate via Kik, Snapchat, and other messenger services. She stated **Dailey** texted her images of him holding his exposed erect penis. She also stated **Dailey** asked her to send him nude pictures of herself.

"Jane Doe 1's" mother handed over the I-phone, used by her daughter, to Odessa Police Department Detective Ron Martz. Detective Martz used hardware and software, designed specifically to preserve data from smart phones and computers. The data was viewed on the morning of 07-07-2014. Several images of a

naked man holding his erect penis with his left hand were located in a Kik application within the memory storage of "Jane Doe 1's" phone. There was a distinctive scar on the top of the man's hand at the base of his thumb. There were several provocative and suggestive photos of "Jane Doe 1" stored on her phone as well.

On 07-07-2014, once the photos were found on "Jane Doe 1's" phone, **Mitchell Dailey** was called to report to OPD PSU. During that meeting, **Mitchell Dailey** resigned from the Odessa Police Department. Moments after he resigned, Texas Ranger Brian Burney and Odessa Police Detective Sergeant Ricky Smith conducted a voluntary interview with **Dailey**. **Dailey** stated he met "Jane Doe 1" during the PAL program and they began a friendship which eventually moved into a physical relationship. He knew she was 15 at that time. He agreed to become engaged to her after she turned 18 and to marry her the next year. According to **Dailey**, he only met with "Jane Doe 1" at PAL events. They would meet in various locations around the PAL gym for a few minutes at a time when no one was around. He admitted to touching her breasts, over her clothes, once and admitted to touching her vagina, over her clothes, on 4 to 5 occasions. **Dailey** admitted sending photos of his penis to "Jane Doe 1" via text or via other social web based media on 7 or 8 occasions. **Dailey** stated he and "Jane Doe 1" would communicate via text messaging, Kik Messenger, Snapchat, Vine, and Text Free. **Dailey** stated he did tease "Jane Doe 1" to send him nude photos of her breasts and vagina. According to **Dailey**, he did not receive nude pictures from "Jane Doe 1" but he did receive the provocative photos he requested. **Dailey** stated he never had sex or oral sex with "Jane Doe 1". Ranger Burney did observe a scar on **Dailey's** left hand that appeared to be identical as that on the nude pictures. Ranger Burney photographed **Dailey's** left hand.

**Dailey's** I-phone and I-pad were searched pursuant to the issuance of a search warrant. Although the entire process is not complete at this time, images could be viewed including several of the same images found on "Jane Doe 1's" phone of the man holding his penis. Some of the text messages sent from **Dailey's** phone to "Jane Doe 1's" phone include: "Make it to where u can't help but touch urself tonight while skyping tonight as I put the camera on my dick as I stroke it for u I'll stop after this message wifey😊", "I wanna taste how wet u r", and "Get deep in u with my tongue".

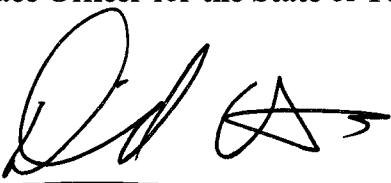
Based on the facts and circumstances revealed in this investigation, Ranger Burney believes **Mitchell Dailey** violated 18 U.S.C. § 1470, which prohibits the transfer of obscene material to a minor under the age of 16.

WHEREFORE, Affiant asks for issuance of an Arrest Warrant for Mitchell Stephen Dailey.

THE STATE OF TEXAS  
COUNTY OF MIDLAND

Sworn to and subscribed before me this 8<sup>th</sup> day of JULY, A.D., 2014.

  
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**Affiant**  
  
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**Brian BURNETT**  
Peace Officer for the State of Texas

  
\_\_\_\_\_  
**DAVID COUNTS**

**U.S MAGISTRATE JUDGE**